HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.4616 OF 1996

DATE: 24th January 2007

Between:

1. Saka Venkateswara Rao,
s/o late Veeranna, aged 30 years,
N.M.R. Accountant and another.

… Petitioners.

And

1. The Commissioner for Rural Development,
A.P. at Hyderabad and 2 others.

… Respondents.

* * *

ORDER:

This writ petition is filed seeking for a writ of Mandamus to direct the respondents to pay petitioners regular pay scales attached to Junior Assistant/Attenders respectively and for further direction to regularize their services as Junior Assistant/Accountant and attender or any other equivalent post by paying regular scales.

2. In the affidavit filed in support of the writ petition, the petitioners averred that while the first petitioner was appointed as N.M.R. Accountant on 22.6.1990 on a consolidated pay of Rs.600/- per month in the third respondent organisation; the second petitioner was initially appointed as Attender on daily wage basis on 16.8.1989; at the time of filing of the writ petition the first petitioner was being paid a consolidated pay of Rs.1,745/- per month and the second petitioner was being paid a consolidated pay of Rs.550/- per month. The

petitioners further averred that though they had been working for more than 5 years, their services were not regularised and regular pay scales were not fixed for them. The petitioners also averred that the Supreme Court held that workmen are entitled to equal pay for equal work and that though similarly situated workmen are paid regular pay scales, the petitioners are denied the said benefit.

3. In the counter-affidavit filed by the Project Director, District Rural Development Agency, Guntur, it is contended that the nature of work done by the petitioners is purely temporary and transitory, and hence, their services cannot be regularised. A reference was made to G.O.Ms.No.212, dated 22.4.1994 and it is contended that since the petitioners failed to complete 5 years of service as on 25.11.1993, they are not entitled to regularization. With respect to the payment of regular scales, it is now brought to my notice that the Project Director, District Rural Development Agency, Guntur, issued proceedings in Rc.No.1111/96/A1, dated 19.6.2006, wherein revised pay scales of 2005 were sanctioned to the petitioners with effect from 01.7.2003 with monetary benefit from 01.4.2005 without annual increments and pending regularization. In respect of the first petitioner, the pay is revised from Rs.1745/- to Rs.4825-10845. In the case of second petitioner the pay is revised from Rs.1375/- to Rs.3850-8600.

4. Having heard the learned counsel for the petitioners and the learned Government Pleader for Panchayat Raj and Rural Development, I am of the view that the petitioners, on the basis of averments contained in this writ petition, are not entitled to regularization. In the first place the petitioners failed to indicate the basis of their claim for regularization. Nowhere in the affidavit filed in support of the writ petition the petitioners sought for regularization on

the basis of G.O.Ms.No.212, dated 22.4.1994, which is now sought to be pressed into service by the learned counsel for the petitioners. Even though the petitioners have not raised this contention, in the counter-affidavit the Project Director took the stand that petitioners are not entitled to the benefit of regularization under G.O.Ms.No.212. According to him they did not complete the service of 5 years as on 25.11.1993.

5. Unless proper pleadings are raised with reference to G.O.Ms.No.212 and contentions are advanced on the interpretation to be given to the said G.O., it is not possible for this court to grant any relief to the petitioners on the strength of G.O.Ms.No.212.

6. As regards pay scales, unless petitioners' services are regularized, they are not entitled to the regular pay scales. However, as already noted above revised pay was fixed by the Project Director in his proceedings dated 19.6.2006.

7. For the aforementioned reasons, no relief can be granted to the petitioners in the present writ petition. However, liberty is given to the petitioners to file a fresh writ petition seeking regularization on the strength of G.O.Ms.No.212, dated 22.4.1994.

8. Subject to the above observations, the writ petition is dismissed. No costs.

_____

(C.V.NAGARJUNA REDDY, J.)

Date: January 24, 2007.
BSB

-